

CHRIS CHRISTIE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey State Board of Physical Therapy Examiners
124 Halsey Street, 6th Floor, Newark, NJ 07102



PAULA T. DOW
Attorney General

KIM GUADAGNO
Lt. Governor

August 17, 2011

THOMAS R. CALCAGNI
Director

By Certified and Regular Mail

Harold Weisman, O.D.
Moorestown Mall
Route 38 & Lenola Road
Moorestown, New Jersey

Mailing Address:

P.O. Box 45014
Newark, NJ 07101
(973) 504-6455

Re: Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Dr. Weisman:

This letter is to advise you that the New Jersey State Board of Optometrists (the "Board") has had an opportunity to review information concerning the optometric services that you provided to A.G. Specifically, the information reviewed revealed that you performed an eye examination on A.G. on or about August 24, 2011 for eyeglasses and for contact lenses. The testimony that you provided at the June 11, 2011 investigative inquiry which you attended with your attorney, James Schragger, Esquire indicated that you did not record an assessment of the eye in the patient's record. Additionally it was your testimony that you did not perform a follow-up examination of the contact lenses on this patient prior to releasing the contact lens prescription.

Upon review of the information in this matter, including the patient record and the testimony that you provided at the investigative inquiry, the Board has preliminarily found that probable cause exist to support a finding that you violated N.J.S.A. 45:1-21(h) and N.J.A.C. 13:38-2.3(a) and N.J.A.C. 13:28-.6.1 (c) 1 as the patient record of A. G. did not reflect an assessment of the eye in the patient record and you issued a contact lens prescription without conducting the follow up visit. Therefore you did not properly evaluate the contact lenses fit and did not complete the contact lens prescription.

At this junction, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceeding against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. You are cautioned that in the future you shall maintain contemporaneous treatment records that accurately reflect the treatment rendered as required by N.J.A.C. 13:38-2.3.

2. Cease and desist from issuing incomplete contact lense prescriptions. A contact lens prescription is not complete unless and until a patient has been fitted for the contact lenses being prescribed and the fit has been fully evaluated over at least one follow-up visit and determined to be satisfactory as set forth in N.J.A.C. 13:38-6.1 (c) 1.

3. Pay a penalty in the amount of \$500.00. This amount consists of a penalty of \$250 for violation of N.J.S.A. 45: 1-21(h) and N.J.A.C. 13:38- 2.3 and and \$250.00 for violations of N.J.A.C. 13:38-6.1(c)1 to be paid immediately upon your signing of the acknowledgment at the bottom of this letter. Payment shall be made by certified check or money order to the NJ State Board of Optometrists, attention Lisa Affinito, P.O. Box 45012, Newark, New Jersey, 07101.

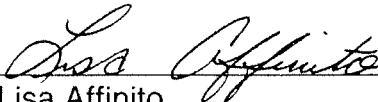
4. Pay the costs of the investigative inquiry in the amount of \$127.75 as set forth in the certification of Lisa Affinito attached hereto.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon you signature, this letter will be a matter of public record.


In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted the Board will either conduct the hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order, requiring you to reimburse certain monies and /or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you have your attorney, Mr. James Schragger contact Deputy Attorney General, Carmen A. Rodriguez, who may be reached at (973) 648-3696.

If you elect to settle this matter, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD of OPTOMETRISTS

By: 
Lisa Affinito
Executive Director

ACKNOWLEDGMENT: I, Harold Weisman, O.D., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights that I may have to defend myself against any charges or wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board is a matter of public record, and that this letter is a matter of public record. I hereby to pay a penalty in the amount of \$500.00 and costs in the amount of \$127.75 (to be paid upon signing of this acknowledgment).


Harold Weisman, O.D.

Dated: 8/26/11

cc: James Schragger, Esquire
Carmen A. Rodriguez, Deputy Attorney General